

Complete Chapter Summaries of Proposed Ordinance Relating to Zoning, Site Alteration and Critical Areas

This summary applies to the proposed Critical Areas Ordinance dated December 10, 2002, and fulfills the state Growth Management Act and King County Code 20.18.100 requirement for a “plain language” summary.

Some of these changes were included in proposed ordinances that were transmitted to the King County Council but not adopted. These items are noted using the following abbreviations:

SAO: The proposed amendments to the Sensitive Areas Ordinance, King County Code (K.C.C.) chapter 21A.24 pending at council (Proposed Ordinance 1999-0353).

SALT: The proposed Site Alteration Code pending at council (Proposed Ordinance 2000-0525). This is a proposed update to the Clearing and Grading Code.

Amendments to K.C.C. chapter 21A.02, “Authority, Purpose, Interpretation and Administration”

Section 1 -- Title. (*K.C.C. 21A.02.010*) Changes the name of Title 21A from “Zoning” to “Zoning, Site Alteration and Critical Areas.”

Section 2 -- Purpose. (*K.C.C. 21A.02.030*) Expands the purposes of this code to include site alteration regulations. The additional purposes are to encourage site alteration decisions that benefit the public and comply with state law; to minimize adverse stormwater impacts from vegetation removal and land alterations; to protect water quality from adverse impacts of erosion and sedimentation; to minimize aquatic and terrestrial habitat loss from removal of vegetation; to facilitate and encourage long term forest practice and agricultural production; to minimize adverse impacts of mineral extraction and related waste material processing; prevent harm to individuals or property from excavation, fills and stockpiles. This title also incorporates administrative procedures for permits, plan approvals, and inspections of site alterations.

Section 3 -- Administration and review authority. (*K.C.C. 21A.02.090*) Corrects references to the hearing examiner. Authorizes the director to grant, condition or deny application for “director’s modifications.” Authorizes the hearing examiner to hear appeals to the director’s decisions. Removes provision authorizing department to require residential and commercial building permits, grading and clearing permits, and temporary use permits; this provision has been moved to another section. Gives the department sole authority to adopt public rules to implement this code. Authorizes the department to require applicant to maintain liability insurance.

Amendments to K.C.C. chapter 21A.06, “Technical Terms and Land Use Definitions”

Section 1 – Administrative section to transfer the definition of alteration.

Section 2 – Airblast. (*new*) An airborne shock wave, whether audible or not, resulting from the detonation of explosives caused by burden movement or the release of expanding gas. [SALT 10]

Section 3 – Administrative section.

Section 4 – Alteration. (*K.C.C. 21A.24.190*) Revisions include:

- References to sensitive areas are revised to refer to critical areas to be consistent with the terminology in the Growth Management Act.
- Changes to a critical area buffer are considered alterations, as well as changes to the critical area itself.
- “Draining” is removed from the list of activities that are considered alterations.
- Fish and fish habitat has been added to the list of resources that can be affected by alterations.

Section 5 – Anadromous fish habitat. (*new*) Streams and habitats used by species of salmonids that spend portions of their life history in both marine and fresh waters.

Section 6 – Applicant. (*K.C.C. 21A.06.070*) Revised to update reference to state law. [SAO 12]

Section 7 – Aquatic area. (*new*) Any water feature including all shorelines of the state, rivers, streams, marine, lakes, ponds, reservoirs, and conveyance systems and impoundment of these features if any portion of such features or flows are formed from a stream or a wetland and if any stream or wetland contributing flows is not solely the result of stormwater pond construction. Does not include water features that are entirely artificially collected or conveyed storm or wastewater systems or entirely artificial channels, ponds, pools or other similar constructed water features.

Section 8 – Bank stabilization. (*new*) An action taken to resist the erosion of materials from the banks of rivers and streams. Typical methods of bank stabilization include various combinations of diverse structural elements such as placement of large woody debris, rounded or angular rock, soil, geotextile fabric, and planting of native woody vegetation.

Section 9 – Base flood elevation. (*K.C.C. 21A.06.085*) Revised to allow use of the effective Flood Insurance Rate Map published by the Federal Emergency Management Agency (FEMA).

Section 10 – Bench. (*new*) A relatively level step excavated or constructed on the face of a graded slope surface for drainage and maintenance purposes. [SALT 12]

Section 11 – Berm. (*K.C.C. 21A.06.097*) Revised from current definition. A mound or raised area used for the purpose of screening a site. [SALT 13]

Section 12 – Bioengineering. (*new*) The use of vegetation and other natural materials such as soil, wood and rock to stabilize soil typically against slides and stream flow erosion. When natural materials alone do not possess the needed strength to resist hydraulic and gravitational forces, bioengineering may consist of the use of natural materials integrated with man-made fabrics and connecting materials in order to create a complex matrix that joins with in-place native materials to provide erosion control. Common techniques used in bioengineering include the use of wattles, brush layering, vegetated geogrid, tree revetment and live staking.

Section 13 – Biologist. (*K.C.C. 21A.06.110*) Revised to require, in addition to a degree, a minimum of four years of relevant work experience in the field of biology (or equivalent training and experience).

Section 14 – Bog. (*new*) A wetland that has no significant inflows or outflows and supports acidophilic mosses, particularly sphagnum. [SAO 14]

Section 15 – Buffer. (*K.C.C. 21A.06.122*) Revised to allow buffers to be defined for all types of critical areas.

Section 16 – Cave. (*new*) A cavity, recess, void, or system of interconnected passages, including associated dendritic tubes, cracks and fissures, that occurs under the earth in soils, rock, ice or other geological formations, and is large enough to contain an adult human. A mine shaft might mimic a cave, and an abandoned mine shaft with an actual or suspected occurrence of a priority species should be regulated in a manner similar to caves.

Section 17 – Channel. (*new*) A feature that contains and was formed by periodically or continuously flowing water.

Section 18 – Channel edge. (*new*) The outer edge of the water's bankfull width or, where applicable, the outer edge of the associated channel migration zone.

Section 19 – Channel migration hazard area, moderate. (*new*) A portion of the channel migration zone, as shown on King County's Channel Migration Zone maps, that lies between the severe channel migration hazard area and the outer boundaries of the channel migration zone.

Section 20 – Channel migration hazard area, severe. (*new*) A portion of the channel migration zone, as shown on King County's Channel Migration Zone maps, that includes the present channel. The total width of the severe channel migration hazard area equals one hundred years times the average annual channel migration rate, plus the present channel width. The average annual channel migration rate shall be as determined in the technical report that is the basis for each Channel Migration Zone map.

Section 21 – Channel migration zone. (*K.C.C. 21A.06.182*) This term, previously called "channel relocation and stream meander areas," is changed. Revisions include referencing King County's Channel Migration Zone maps as an authority on the location of channel migration zones. A channel migration zone does not include those areas that lie behind an arterial road, a public road serving as a sole access route, a regional transportation corridor, or a lawfully established flood hazard reduction facility that is likely to be protected from future bank erosion due to existing programs for public maintenance. When a natural geologic feature will affect channel migration, the channel migration zone width shall be modified to consider such natural constraints.

Section 22 – Clearing. (*K.C.C. 21A.06.195*) Clarifies the activities that constitute clearing and incorporates the definition of cutting into this definition. [SALT 15]

Section 23 – Clearing and grading permit. (*new*) The permit required by this title for either clearing activities or grading activities, or both, including, but not limited to, standard and programmatic permits. [SALT 16]

Section 24 – Cliff. (*new*) A slope exceeding 25 feet in height and 65 degrees or greater in average grade that occurs below 5,000-feet elevation above sea level.

Section 25 – Coal mine by-products stockpile. (*K.C.C. 21A.06.197*) The definition is changed to capture additional stockpiles that represent potential hazard from decomposition of remnant coal. [SAO 17]

Section 26 – Coal mine hazard areas. (*K.C.C. 21A.06.200*) The coal mine hazard classifications are removed from this definition and have been placed in a new classification section. [SAO 16]

Section 27 – Compaction. (*new*) The densification of a fill or the natural soil column by mechanical means. [SALT 17]

Section 28 – Conserve and conservation. (*new*) To use, and the use of, all methods and procedures which are available to protect the abundance and distribution of, and to promote the recovery of, biota and the ecosystems upon which they depend.

Section 29 – Administrative section to recodify K.C.C. 20.70.010 as a new section in this chapter.

Section 30 – Critical aquifer recharge area. (*K.C.C. 20.70.010*) Technical changes.

Section 31 – Critical area. (*new*) Any of those areas in King County that are subject to natural hazards or those land features that support unique, fragile or valuable natural resources including fish, wildlife or other organisms or their habitats or such resources that carry, hold or purify water in their natural state. “Critical area” includes the following areas:

- Coal mine hazard area
- Erosion hazard area
- Flood hazard area
- Landslide hazard area
- Seismic hazard area
- Steep slope hazard area
- Volcanic hazard area
- Aquatic area
- Wetlands
- Fish and wildlife habitat conservation area.

Section 32 – Critical facility. (*K.C.C. 21A.06.260*) Revised to clarify reference to Uniform Building Code and to broaden the scope of facilities covered by the definition. [SAO 19]

Section 33 – Department. (*K.C.C. 21A.06.280*) The King County department of development and environmental services or its successor agency. [SALT 20]

Section 34 – Depth of cut. (*new*) The vertical distance measured from the top of the excavation to the toe of the excavation. [SALT 21]

Section 35 – Depth of fill. (*new*) The vertical distance measured from the top of the embankment to the toe of the embankment or from the top of the final grade to the lowest point of the pre-activity grade, as appropriate. [SALT 22]

Section 36 – Ditch. (*new*) An artificial open channel used or constructed for the purpose of conveying water. [SAO 20]

Section 37 – Drainage basin. (*new*) A drainage area that drains to the Cedar, Green, Snoqualmie, Skykomish or White river, Lake Washington or other drainage area that drains directly to Puget Sound. [SAO 21]

Section 38 – Drainage facility. (*new*) A feature, constructed or engineered for the primary purpose of providing drainage, that collects, conveys, stores or treats surface water. A drainage facility may include, but is not limited to, a stream, pipeline, channel, ditch, gutter, lake, wetland, closed depression, flow control or water quality treatment facility and erosion and sediment control facility.

Section 39 – Drainage subbasin. (*new*) A drainage area identified as a drainage subbasin in a county-approved basin plan or, if not identified, a drainage area that drains to a waterbody that is named and mapped and contained within a drainage basin. [SAO 23]

Section 40 – Effective impervious surface. (*new*) All impervious surface area on a development site except those portions that meet one of the following conditions:

- The impervious surface runoff is fully dispersed using the county's full dispersion Best Management Practices;
- The impervious surface runoff is fully infiltrated according to the infiltration standards in the county's Surface Water Design Manual; or
- The impervious surface runoff is managed in an alternative way approved by the county that effectively mitigates all of the hydrologic effects of the impervious surface which effects are increased runoff peaks, frequencies, volumes and flashiness and decreased groundwater recharge; and

Impervious surface area that does not meet one condition listed above is considered to be effective impervious area at the "site scale" as opposed to a "watershed scale," even if its runoff flows over pervious area before reaching the local drainage system or flows through an onsite stormwater detention facility.

Section 41 – Emergency. (*K.C.C. 21A.06.392*) Revised to narrow the definition to unanticipated occurrences, and to broaden the risks that define an emergency to include personal injury or death. [SAO 24]

Section 42 – Emergency action. (*new*) An action taken in direct response to and to avoid, prevent or protect against the risks or dangers of an emergency and that must be undertaken immediately or within a time too short to allow full compliance with this title. [SAO 25]

Section 43 – Engineer, civil, geotechnical and structural. (*new*) This definition is added to clarify the professional experience necessary for various types of engineers. Geotechnical engineer is defined in the current code; that definition is moved to this section with only technical changes. The other two definitions are new. [SAO 26]

Section 44 – Enhancement. (*K.C.C. 21A.06.400*) The changes to this definition are technical.

Section 45 – Erosion. (*K.C.C. 21A.06.410*) The wearing away of the ground surface as the result of the movement of wind, water and ice. [SALT 32]

Section 46 – Erosion and sediment control standards. (*new*) The document describing the erosion and sediment control planning and design requirements, procedures and guidance that has formally been adopted by rule under procedures specified in K.C.C. chapter 2.98. This new section also lists where the document may be obtained. [SALT 33]

Section 47 – Erosion hazard area. (*K.C.C. 21A.06.415*) The existing definition of erosion hazard area, which lists specific soil types, is expanded to specifically include soils that represent significant risk to sensitive downstream receiving waters due to proximity to those receiving waters and the size of the disturbed area. [SAO 28]

Section 48 – Estuary. (*new*) The deepwater tidal area and adjacent tidal wetland, usually semi-enclosed by land but with open, partly obstructed or sporadic access to open marine waters, and in which marine waters are at least occasionally diluted by freshwater runoff from the land. An estuary extends upstream and landward to where ocean-derived salts measure one-half percent during the period of average annual flow.

Section 49 – Excavation. (*new*) The removal of any rock, natural soil, organic material, fill or any combination thereof. [SALT 34]

Section 50 – Existing, maintained, improved road right-of-way or railroad prism. (*new*) The maintained areas cleared and graded within a road right-of-way or railroad prism. For a road right-of-way, this includes all maintained and traveled areas, shoulders, pathways, sidewalks, drainage ditches and cut and fill slopes. For a railroad prism, this includes the maintained railbed and shoulders, which are fill slopes. For the purpose of this definition, “maintained” means the road right-of-way or railroad prism is maintained at least once every five years.

Section 51 – Expansion. (*new*) The act or process of increasing the size, quantity or scope of something, or the product of expanding something. An expansion may include a change in use of a structure, facility or equipment beyond what previously existed.

Section 52 – Federal Emergency Management Agency. (*new*) The independent federal agency that, among other responsibilities, oversees the administration of the National Flood Insurance Program.

Section 53 – FEMA. (*new*) The Federal Emergency Management Agency.

Section 54 – FEMA floodway. (*K.C.C. 21A.06.455*) Technical changes. [SAO 29]

Section 55 – Fen. (*new*) A wetland that receives some drainage from surrounding mineral soil and usually supports marsh-like vegetation. [SAO 30]

Section 56 – Fill. (*new*) A deposit of any rock; natural soil; organic material; recycled or waste materials made of nonnoxious, nonflammable, noncombustible and nonputrescible solids; or any combination thereof, placed by mechanical means. [SALT 35]

Section 57 – Fish and wildlife habitat conservation area. (*new*) Any of the following habitat areas:

- Habitat for federal or state listed endangered, threatened, or sensitive species;
- Habitat for salmonids of local importance;
- Habitat for raptors and herons of local importance;
- Commercial and recreation shellfish areas;
- Kelp and eelgrass beds;
- Herring, sand lance and smelt spawning areas;
- Naturally occurring ponds under 20 acres and their submerged aquatic beds that provide habitat for fish or wildlife;
- Wildlife habitat networks designated by King County;
- Aquatic areas, including riparian corridors; and
- Habitat for candidate species, as listed by the Washington Department of Fish and Wildlife, found outside the area designated urban in the King County comprehensive plan.

This new definition is consistent with the Growth Management Act.

Section 58 – Flood fringe, zero-rise. (*K.C.C. 21A.06.470*) The only changes are minor technical changes.

Section 59 – Flood hazard area. (*K.C.C. 21A.06.475*) The changes to this definition are technical. The reference to “channel relocation or stream meander” is updated to “channel migration.” [SAO 31]

Section 60 – Flood hazard boundary map. (*new*) The initial insurance map issued by FEMA that identifies, based on approximate analyses, the areas of the one percent annual chance, 100-year, flood hazard within a community.

Section 61 – Flood Insurance Rate Map. (*K.C.C. 21A.06.480*) The reference to “Federal Insurance Administration” is updated to “Federal Emergency Management Agency.”

Section 62 – Flood Insurance Study for King County. (*K.C.C. 21A.06.485*) Minor technical changes. The reference to “Federal Insurance Administration” is updated to “Federal Insurance and Mitigation Administration.”

Section 63 – Flood protection elevation. (*K.C.C. 21A.06.490*) Minor technical changes.

Section 64 – Flood protection facility. (*new*) A structure that provides significant protection from flood damage. Flood protection facility includes, but is not limited to, the following structures and supporting infrastructure:

- Dams or water diversions, regardless of primary purpose, if the facility provides flood protection benefits;
- Flood containment facilities such as levees, dikes, berms, walls, raised banks, including pump stations and other supporting structures; and
- Bank stabilization structures, often called revetments.

Section 65 – Floodproofing, dry. (*K.C.C. 21A.06.500*) The changes to this definition are technical.

Section 66 – Floodway, zero-rise. (*Ordinance 10870, Section 141, and K.C.C. 21A.06.505*) Zero-rise is clarified to mean a measurable increase in the base flood elevation directly attributable to alterations of the topography or placement of obstructions. The existing definition lists generic development as the cause of an increase in the base flood elevation. The reference to “Flood Insurance Study” is updated to “FEMA maps or flood hazard boundary maps adopted by King County.” The remaining changes are technical. [SAO 32]

Section 67 – Flyrock. (*new*) Rock that is propelled through the air by the detonation of explosives. [SALT 36]

Section 68 – Forest, mature. (*new*) A stand of trees, not meeting the definition of old growth forest, with average tree diameters exceeding 21 inches diameter at breast height. The crown cover may be less than 100 percent. Decay, decadence, numbers of snags, and quantity of downed material is generally less than that found in old-growth forest. The trees are up to 200 years old.

Section 69 – Forest, old-growth. (*new*) A stand of trees with trees at least 180 years old or greater and more than 32 inches diameter at breast height. Generally old-growth forest contains moderate to high canopy closure and includes a multi-layered, multi-species canopy dominated by large overstory trees. There is a high incidence of large trees, some with broken tops and other indications of old and decaying wood. There are often numerous large snags and heavy accumulations of wood, including large logs, on the ground.

Section 70 – Forest practice. (*K.C.C. 21A.06.520*) Revised to update reference to Revised Code of Washington. The following are removed from the definition: fire prevention, detection, and suppression, and slash burning or removal. The definition focuses on timber growing, harvesting and processing, and includes:

- Road and trail construction;
- Final and intermediate harvesting;
- Pre-commercial thinning;
- Reforestation;
- Fertilization;
- Prevention and suppression of diseases and insects;
- Salvage of trees;
- Brush control; and
- Planting.

The following are not considered to be forest practices:

- preparatory work such as tree marking, surveying and road flagging; and
- removal or harvesting of incidental vegetation (berries, ferns, greenery, mistletoe, herbs, mushrooms, etc.) from forest lands that cannot normally be expected to result in damage to forest soils, timber or public resources.

Section 71 – Geologist. (*K.C.C. 21A.06.545*) The current definition requires four years of professional experience. In the new definition, professional experience is clarified to be in the fields of geology, geomorphology or engineering geology. [SAO 34]

Section 72– Geotechnical engineer. (*K.C.C. 21A.06.550*) The definition of “geotechnical engineer” is repealed. Geotechnical engineer is now defined in section 16, “Engineer, civil, geotechnical and structural.” [SAO 35]

Section 73 – Grade. (*new*) The elevation of the ground surface. Further, “existing grade” is defined as the grade prior to grading, “rough grade” is the grade that approximately conforms to the approved plan, and “finish grade” is the grade that conforms to the approved plan. [SALT 39]

Section 74 – Ground motion. (*new*) A shaking of the ground caused by the elastic wave emanating from a blast or seismic event. [SALT 41]

Section 75 – Habitat. (*new*) The locality, site, and particular type of environment occupied by an organism at any stage in its life cycle.

Section 76 – Habitat, fish. (*new*) Habitat that is used by fish at any life stage at any time of the year including potential habitat likely to be used by fish. This includes habitat that is upstream of, or landward of, human-made barriers that could be accessible to, and could be used by, fish upon removal of the barriers. This includes off-channel habitat, flood refuges, tidal flats, tidal channels, streams and wetlands.

Section 77 – Habitat, open. (*new*) Habitat that is not occupied by forest or shrub-scrub vegetation.

Section 78 – Habitat corridor. (*new*) A contiguous connection between critical areas consisting of native shrub or forest habitats that allows for uninhibited migration of most wildlife species.

Section 79 – Habitat evaluation. (*new*) Type of critical area special study for determining the abundance and quality of habitat features for a species or other taxonomic group or functional group such as a guild.

Section 80 – Herbicide. (*new*) Any chemical, organism or product used to kill, repel or otherwise control unwanted vegetation. Herbicide is a type of pesticide. [SALT 43]

Section 81 – Hydrologically connected. (*new*) A connection between two or more water bodies including, but not limited to, wetlands, streams or lakes, as evidenced by either the presence of surface water in a stream above ground (including in a culvert), the presence of contiguous hydric soil, or the location of a water body within or contiguous to a 100-year floodplain of a wetland, stream or lake.

Section 82 – Hydrologically mature vegetation. (*new*) A developmental stage of a forest or another vegetation community at which the rainfall and runoff pattern is similar to that of an undisturbed forest or other vegetation community.

Section 83 – Impervious surface. (*K.C.C. 21A.06.625*) Revised to no longer exclude access easements from the definition. The remaining changes to this section are technical. [SALT 44]

Section 84 – Impoundment. (*new*) A body of water collected in, or as if in, a reservoir, pond or dam or collected as a consequence of natural disturbance events.

Section 85 – Improved area. (*new*) An area that has been disturbed or altered in accordance with law by mechanical or other human means and is actively maintained to no longer exist in

its natural vegetative state. An improved area may include, but is not limited to, an area cleared, graded, planted as lawn, constructed upon or otherwise developed. [SALT 45]

Section 86 – Inherent site potential. (*new*) The potential that a site has for contributing to the ecological functions that are necessary for salmonid conservation, this potential being based on the natural, pre-development characteristics of the site.

Section 87 – Instream structure. (*new*) Anything placed or constructed below the ordinary high water mark, including, but not limited to weirs, culverts, fill and natural materials, but not including dikes, levees, revetments or other bank stabilization facilities.

Section 88 – Interim recycling facility. (*K.C.C. 21A.06.640*) Revised to remove source separated, organic waste processing facilities from the list of facilities which are considered interim recycling facilities. These facilities are now covered under the definition of processing operation in section 106. [SALT 129]

Section 89 – Lake. (*new*) An aquatic area consisting of an inland body of water 20 acres or greater in size at seasonal low water.

Section 90 – Landslide hazard area. (*K.C.C. 21A.06.680*) This definition is expanded to regulate moderate, as well as severe, landslide hazards. [SAO 42]

Section 91 – Maintenance. (*new*) Those usual acts to prevent a decline, lapse or cessation from a lawfully established condition without any expansion of or significant change from that originally established condition. Activities within landscaped areas within areas subject to native vegetation retention requirements may be considered maintenance only if they maintain or enhance the canopy and understory cover. For the purposes of this section, “maintenance” does not include repair and replacement work. When maintenance is conducted specifically in accordance with the Regional Road Maintenance Guidelines, the definition of “maintenance” in the glossary to those guidelines supersedes this definition.

Section 92 – Maximum extent practicable. (*new*) The highest level of effectiveness that can be achieved through the use of best available science or technology. In determining what is the maximum extent practicable, the department shall consider, at a minimum, the effectiveness, engineering feasibility, commercial availability, safety and the cost of the measures.

Section 93 – Mine. (*new*) A human-made excavation in the earth usually used to extract minerals.

Section 94 – Mitigation. (*K.C.C. 21A.06.750*) Revised to simplify the list of actions that are considered mitigation. The last, and therefore least desirable, action listed in the existing section (namely, monitoring the impact and taking appropriate corrective measures) is removed. The reference to a descending order of preference is removed.

Section 95 – Mitigation bank. (*K.C.C. 21A.06.751*) The changes to this section are technical.

Section 96 – Native vegetation. (*K.C.C. 21A.06.790*) The definition is changed to (1) eliminate reference to noxious weeds and (2) changing “Pacific Northwest coastal region” to “Puget Sound region.” [SALT 48]

Section 97 – Net buildable area. (*K.C.C. 21A.06.797*) The changes to this section are technical. [SAO 45]

Section 98 – Noxious weed. (*K.C.C. 21A.06.815*) Clarifies the reference to the state noxious weed list, by expanding the definition to any listed plant, regardless of the list's regional designation or classification. [SALT 49]

Section 99 – Ordinary high water mark. (*K.C.C. 21A.06.825*) Revised to use the mean higher high tide in areas adjoining salt water where the ordinary high water mark cannot be found. The existing definition had not distinguished between fresh and salt water. Another revision applies this definition to ponds (defined in new section 102).

Section 100 – Patch. (*new*) A relatively homogenous nonlinear area of vegetative cover or development that differs from its surroundings.

Section 101 – Pesticide. (*new*) Any herbicide, insecticide, fungicide, rodenticide or any other chemical used to kill, repel or otherwise control unwanted organisms. [SALT 51]

Section 102 – Pond. (*new*) An aquatic area consisting of an inland body of open water that is less than 20 acres at seasonal low water, including beaver ponds and tarns.

Section 103 – Primary association. (*new*) A positive relationship that is strong and predictable between a species and a habitat that reflects dependence by the species on the habitat.

Section 104 – Priority area. (*new*) An area that is one or more of the following:

- An *artificial nesting feature*, which is a human-made feature used for nesting such as a nest box or platform;
- A *breeding area*, which is the area necessary to support reproduction and the rearing of young and includes a breeding site and adjacent foraging habitat and may include a disturbance buffer;
- A *breeding site*, which is the immediate area and features associated with producing and rearing young, such as a nest tree, den or redd. Typically a breeding site is a point location;
- A *communal roost*, which is a habitat feature, such as a tree, cave or cliff that is regularly or traditionally used by species of wildlife for resting or hibernating;
- A *foraging area*, which is a feeding area that is regularly used by fish or wildlife;
- A *hacking site*, which is a location where juvenile diurnal raptors, which are usually bred in captivity, are released to acclimate them to the wild;
- A *haulout*, which is a land area where marine mammals regularly rest;
- A *migration corridor*, which is an area or route regularly or traditionally used by fish and wildlife to travel between seasonal habitats;
- A *movement corridor*, which is a route used by fish and wildlife to move between areas and habitats for the purposes of foraging, breeding, resting, roosting and perching;
- A *regular concentration area*, which is an area that is commonly or traditionally used by one or more groups of a species of fish or wildlife on

a seasonal or year-round basis, such as a core area, staging area or stopover sites;

- A *regularly used perch*, which is a habitat feature, such as a tree or cliffs, that is regularly or traditionally used by birds for perching; and
- A *rookery*, which is a communal breeding and rearing area for birds and marine mammals.

Section 105 – This repeals the phrase “private stormwater management facility.” (*K.C.C. 21A.06.905*) [SAO 47]

Section 106 – Processing operation. (*new*) A site or establishment, not accessory to mineral extraction or sawmill use, primarily engaged in crushing, grinding, pulverizing or otherwise preparing earth materials, vegetation, organic waste, construction and demolition materials or recycled and source-separated nonhazardous waste materials and that is not the final disposal site. [SALT 130]

Section 107 – Raptors and herons of local importance. (*new*) Red-tailed hawk; osprey; black-crowned night heron and great-blue heron.

Section 108 – Reclamation. (*new*) The final grading and restoration of a site to reestablish on a perpetual basis the vegetative cover, soil, surface water and groundwater conditions appropriate to accommodate and sustain all permitted uses of the proposed zone appropriate for the site. [SALT 52]

Section 109 – Rectification. (*new*) An action that repairs an alteration to a critical area or buffer. [SAO 48]

Section 110 – Regional stormwater management facility. (*K.C.C. 21A.06.975*) Only a minor technical change was made. [SAO 49 repeals this section; SALT 9 retains it]

Section 111 – Repair. (*new*) To fix or restore to sound condition after damage. “Repair” includes those usual activities taken to prevent a decline, lapse or cessation in the use of structures and systems.

Section 112 – Replace. (*new*) To take or fill the place of something with an equivalent or substitute thing that serves the same purpose. The replacement of an existing structure or system may or may not involve an expansion.

Section 113 – Reservoir. (*new*) An artificially confined body of water created to store water for consumption, power generation, irrigation or other purposes.

Section 114 – Restoration. (*K.C.C. 21A.06.1000*) These changes are technical, clarifying that the definition applies only to critical area and making the definition parallel in format to other similar definitions. [SAO 50]

Section 115 – Riparian corridor. (*new*) The riparian zones along both sides of a stream.

Section 116 – Roadway. (*new*) The pavement width or proper driving portion of the road and shoulders within the outside limits of the constructed fill slopes. The roadway is only one of the improved portions within the road right-of-way, which also may include the roadside ditch and cut or engineered slope. [SALT 53]

Section 117 – Salmonid. (*K.C.C. 21A.06.1015*) Technical changes to update the list of fish included in this family. Modifies or adds the following fish names: coho or silver salmon, cutthroat salmon (also known as trout), bull trout (also known as char), and pygmy whitefish.

Section 118 – Salmonids of local importance. (*new*) Kokanee, sockeye, red salmon, chum salmon, coho or silver salmon, pink salmon, coastal resident or searun cutthroat, rainbow trout, steelhead, bull trout, Dolly Varden char and pygmy whitefish.

Section 119 – Seasonal low water. (*new*) The lowest surface water elevation in a lake, stream, river, pond, impoundment or wetland experienced during a year of normal rainfall. For the purpose of this definition “normal rainfall” means rainfall that is at or near the mean of the accumulated annual rainfall record, based upon the water year for King County as recorded by the Seattle-Tacoma International Airport.

Section 120 – Seismic hazard area. (*K.C.C. 21A.06.1045*) These changes are technical, making the definition parallel to other similar definitions. [SAO 52]

Section 121 – Sensitive areas. (*K.C.C. 21A.06.1065*) Revised to refer to the new definition of critical areas.

Section 122 – Shoreline. (*new*) Those lands defined as shorelines in the state Shorelines Management Act of 1971. [SALT 54]

Section 123 – Shoreline, consolidated. (*new*) Intertidal and subtidal zones of beaches, with outcroppings of rocks greater than 10 inches in diameter, that may also include the back-shore and adjacent components of the terrestrial landscapes that are important to shoreline associated fish and wildlife and that contributes to shoreline functions.

Section 124 – Shoreline, marine or estuarine. (*new*) Includes the intertidal and subtidal zones of beaches, and may also include the backshore and adjacent components of the terrestrial landscape, such as cliffs, snags, mature tress, dunes, meadows, banks or bluffs that are important to shoreline-associated fish and wildlife and that contribute to shoreline function, such as sand, rock or log recruitment, nutrient contribution or erosion control.

Section 125 – Shoreline, unconsolidated. (*new*) Intertidal and subtidal zones of beaches, with outcroppings of rocks less than 10 inches in diameter, gravel, shell, sand or mud, that may also include the back-shore and adjacent components of the terrestrial landscapes that are important to shoreline associated fish and wildlife and that contributes to shoreline functions.

Section 126 – Side channel. (*new*) A channel that is secondary to but carries water to or from the main channel of a stream or the main body of a lake or estuary, including back-watered channels or areas and oxbow channels that are still connected to a stream by one or more above-ground channel connections or by inundation at the base flood.

Section 127 – Site area. (*K.C.C. 21A.06.1172*) The changes to this definition are technical.

Section 128 – Slope. (*new*) An inclined ground surface, the inclination of which is expressed as a ratio of vertical distance to horizontal distance. [SALT 56]

Section 129 – Snag. (*new*) A dead or dying tree that exhibits sufficient decay characteristics to enable cavity excavation or use by wildlife.

Section 130 – Species of local importance. (*new*) Any of the following species:

- Geoduck clam and Pacific oyster;
- Dungeness crab and Pandalid shrimp;
- Red urchin;
- White sturgeon, Pacific herring, channel catfish, longfin smelt, Pacific cod, Pacific whiting, black rockfish, copper rockfish, quillback rockfish, yelloweye rockfish, lingcod, Pacific sand lance, English sole and rock sole;
- Trumpeter swan, Tundra swan, Snow goose, Band-tailed pigeon, Brant, Harlequin duck, Blue grouse, Mountain quail and Western bluebird; and
- Marten, mink, Columbian black-tailed deer, elk and mountain goat.

Section 131 – Steep slope hazard area. (*K.C.C. 21A.06.1230*) The changes to this definition are technical. [SAO 54]

Section 132 – Stream. (*K.C.C. 21A.06.1240*) While not changing the substance of the definition, the definition is rewritten to more concisely identify what is and is not a stream. The definition more clearly distinguishes between naturally and artificially created channels and beds and clarifies when an artificial channel or bed is defined as a stream. Finally, the stream classifications were removed from the definition and are now covered by the new water types defined in chapter 21A.24. [SAO 55]

Section 133 – Stream scientist. (*new*) The definition of “stream scientist” defines the type of school and training needed. [SAO 56]

Section 134 – Structural fill. (*new*) Any fill placed and graded to meet a minimum compaction requirement including a defined embankment such as a road or berm. [SALT 58]

Section 135 – Submerged land. (*K.C.C. 21A.06.1265*) Technical change to list the types of water that may be associated with submerged land. [SALT 59]

Section 136 – Substantial improvement. (*K.C.C. 21A.06.1270*) Revised to clarify that the cost of a substantial improvement begins when the first structural alteration commences, whether or not that first alteration affects the external dimensions of the structure. The following not considered substantial improvement:

- improvements that correct existing code violations and that are the minimum necessary to assure safe living conditions; or
- alteration of a structure listed on the national Register of Historic Places or a state or local inventory of historic resources.

The remaining changes to this section are technical.

Section 137 – Surface water conveyance. (*new*) A drainage facility designed to collect, contain and provide for the flow of surface water from the highest point on a development site to receiving water or another discharge point, connecting any required flow control and water quality treatment facilities along the way. The elements of a surface water conveyance system include, but are not limited to, gutters, ditches, pipes, biofiltration swales and channels. [SALT 61]

Section 138 – Surface water discharge. (*new*) The flow of surface water into receiving water or another discharge point. [SALT 62]

Section 139 – Talus slope. (*new*) A sloped area formed by or armored with rock fragments that are relatively homogeneous size and have an average dimension between 1/2 and 6-1/2 feet. A talus slope typically occurs at the base of a steep rock slope or cliff.

Section 140 – Terrace. (*new*) A relatively level step excavated or constructed on the face of a graded slope surface for drainage and maintenance purposes. [SALT 63]

Section 141 – Tideland. (*new*) That portion of the land that is covered and uncovered by the ebb and flood tide. [SALT 64]

Section 142 – Tree. (*new*) A large woody perennial plant usually with a single main stem or trunk and generally over 12 feet tall at maturity. [SALT 65]

Section 143 – Tree, hazard. (*new*) A tree with a structural defect which, under the normal range of environmental conditions at the site, will result in the loss of a major structural component of the tree in a manner that will damage structures or roads or prevent emergency access. [SALT 42]

Section 144 – Tributary drainage area. (*new*) The geographical area that drains to the development proposal site as identified in an off-site analysis done in accordance with the King County Surface Water Design Manual. [SALT 66]

Section 145 – Understory. (*new*) The vegetation layer of a forest that includes shrubs, herbs, grasses, and grass-like plants, but excludes native trees. [SALT 67]

Section 146 – Utility corridor. (*new*) A narrow strip of land containing underground or above-ground utilities and the area necessary to maintain those utilities. A utility corridor is contained within and is a portion of any utility right-of-way or dedicated easement. [SAO 63]

Section 147 – Utility facility. (*K.C.C. 21A.06.1350*) These are technical changes. The phrase “stormwater management facilities” is replaced with “flow control facilities,” consistent with the King County Surface Water Design Manual. [SAO 64]

Section 148 – Vactor waste. (*K.C.C. 21A.06.1352*) These are technical changes. [SAO 65]

Section 149 – Vegetation cover types. (*new*) Vegetation cover types are:

A. Forest:

1. Old-growth;
2. Mature;
3. Coniferous; and
4. Deciduous

B. Shrub-scrub;

C. Pasture; and

D. Grassland or meadow.

Section 150 – Volcanic hazard area. (*K.C.C. 21A.06.1370*) These are technical changes. [SAO 66]

Section 151 – Wet meadow, grazed. (*K.C.C. 21A.06.1390*) Revisions include the requirement that the area must have been in continuous use for grazing livestock since

November 27, 1990. Technical changes include defining “continuous use.” [SAO 68 repeals this section; however, it is being retained]

Section 152 – Wetland, associated. (*new*) Wetlands either wholly or partially contained within (a) 200 feet of the ordinary high water mark of any aquatic area or other wetland or (b) the channel migration zone.

Section 153 – Wetland complex. (*new*) A wetland complex is defined as two or more wetlands close enough to each other that they are interdependent and the biological value of the complex exceeds the individual biological value of any one of the wetlands. A wetland is part of a complex if it is within 500 feet of another wetland and at least one of the wetlands in the complex exhibits either the presence of any animal species that migrates between wetlands, or the presence of wetland complex-dependent plant species such as Lodgepole pine or Western white pine.

Section 154 – Wetland edge. (*K.C.C. 21A.06.1395*) Updates the existing reference to the state’s manual for wetland delineation. [SAO 69]

Section 155 – Wetland, forested. (*K.C.C. 21A.06.1400*) A wetland that is dominated by mature woody vegetation or wetland vegetation class that is characterized by woody vegetation at least twenty feet tall. [SAO 71]

Section 156 – Wetland, isolated. (*K.C.C. 21A.06.1410*) The changes incorporate the new phrase “hydrologically connected.” The size limitations were eliminated from the definition. [SAO 72]

Section 157 – Wetland scientist. (*new*) In comparison with “biologist,” the definition of “wetland scientist” more particularly defines the type of professional needed for doing wetlands work. Five years of relevant field work experience is required, similar to experiential requirements for professionals in the geotechnical and stream fields. As another alternative, certification as a professional wetland scientist by the Society of Wetland Scientists (which has its own proficiency requirements) is accepted. [SAO 73]

Section 158 – Wetland. (*K.C.C. 21A.06.1415*) Technical changes include: (1) making the definition parallel to other similar definitions, (2) reorganizing the definition, (3) eliminating an unnecessary list of what might constitute a wetland, (4) moving the wetland classification standards to a new section in the critical areas chapter and (5) replacing old terms and phrases with new terms and phrases used consistently throughout this ordinance. Substantive changes include: (1) adding a provision which defines the waterward boundary of a wetland when it occurs along a shoreline as where the water’s depth exceeds 6.6 feet below low water, and (2) clarifying that artificial wetlands created intentionally as mitigation sites (such as wetland mitigation banks) are defined as wetlands, even though they are artificially created. [SAO 75]

Section 159 – Wetland vegetation class. (*new*) A wetland community classified by its vegetation including aquatic bed, emergent, forested and scrub-shrub. To constitute a separate wetland vegetation class, the vegetation must be at least partially rooted within the wetland and must occupy the uppermost stratum of a contiguous area or comprise at least 30 percent areal coverage of the entire wetland. [SAO 76]

Section 160 – Wildlife. (*new*) This is a new definition which includes birds, fish and animals under the term “wildlife.” [SALT 70]

Section 161 – Wildlife habitat network. (*new*) Connected areas linking wildlife habitat with critical areas, critical area buffers, priority habitats, trails, parks, open space and other areas to provide for wildlife movement and alleviate habitat fragmentation. The official wildlife habitat network is defined and mapped in the King County Comprehensive Plan. The wildlife habitat network includes additional links to the official network that have been designated and protected as fish and wildlife habitat conservation areas by the department. The purpose of such links is to further connect priority habitats and potential priority habitats across the landscape to minimize fragmentation.

Amendments to K.C.C. chapter 21A.08, “Permitted Uses”

Section 1 -- General services land uses. (*K.C.C. 21A.08.050*) Recycling facilities on resource lands are no longer permitted. [SALT Section 131]

Section 2 -- Resource land uses. (*K.C.C. 21A.08.090*) Added a use for processing operations on resource lands. On forest and mineral resource lands, processing operations related to mineral extraction are only permitted for the period of time needed for that mineral extraction activity. On agricultural lands, processing operations are limited to source-separated yard or organic waste processing at an appropriate scale for the amount of organic waste generated in the agricultural zone. On forest lands, waste processing is limited to source-separated yard or organic waste processing as an accessory to a sawmill use, and at an appropriate scale for the amount of organic waste generated on the site. [SALT Section 133]

Amendments to K.C.C. chapter 21A.12, “Development Standards - Density and Dimensions”

Section 1 -- Measurement methods. (*K.C.C. 21A.12.050*) Revises terminology in the provision for impervious surface calculations. [SAO Section 78]

Amendments to K.C.C. chapter 21A.14, “Development Standards - Design Requirements”

Section 1 -- Lot segregations - clustered development. (*K.C.C. 21A.14.040*) Gives director discretion in rural areas (RA zone) to allow smaller lots in a cluster, or to allow more lots to be served by a single cul-de-sac, if the property is encumbered by critical areas for ESA-listed species. Also revised to update terminology used for critical areas.

Section 2 -- On site recreation - space required. (*K.C.C. 21A.14.180*) Revised to update terminology used for drainage facilities. [SAO Section 79]

Amendments to K.C.C. chapter 21A.28, “Development Standards - Adequacy of Public Facilities and Services”

Section 1 -- Surface water management. (*K.C.C. 21A.28.050*) Modifies the term relating to the procedure for requesting relief from surface water management requirements, from a “variance” to an “adjustment to the requirements” to be consistent with the Surface Water Design Manual.

Amendments to K.C.C. chapter 21A.30, “Development Standards: Animals, Home Occupation, Home Industry”

Section 1 -- Animal regulations - Livestock - Densities. (*K.C.C. 21A.30.040*) Revised to:

- require commercial dairy farms to comply with state requirements regarding livestock densities and to develop a farm management plan, which specifies livestock densities;
- remove language for commercial dairy farms that set a 5-year deadline for compliance, which has passed;
- set a limit of five animal units (as defined by this section) for a farm that does not have a farm management plan; and
- remove the exemption from fencing requirements for the Snoqualmie River floodplain.

Section 2 -- Animal regulations - Livestock - Farm management plans. (*K.C.C. 21A.30.045*)

Revised as follows:

- Farm management plan criteria are revised to allow commercial dairy farms to substitute a certified state Department of Ecology Nutrient Management Plan for a farm management plan. (A commercial dairy farm that does not have an approved farm management plan must meet the livestock management requirements of K.C.C. chapter 21A.30.060).
- References to streams are changed to aquatic areas, references to stream types are changed to water types, and references to wetland classes are changed to wetland categories. This is done to achieve consistency with the new critical areas ordinance definitions.

Section 3 -- Animal regulations - Livestock - Management standards. (*K.C.C. 21A.30.060*)

Revised as follows:

- In general, references to streams are changed to aquatic areas, references to stream types are changed to water types, and references to wetland classes are changed to wetland categories. This is done to achieve consistency with the new critical areas definitions.
- References to sensitive areas are revised to refer to critical areas to be consistent with the terminology in the Growth Management Act.
- The definition of the rainy season is revised to be October 1 through April 30.
- Fencing between confinement areas and buffers is not required if the existing natural vegetation is sufficient to exclude livestock from the buffer.
- Requirements for the management of manure stockpiles are revised to apply throughout the entire year.
- Requirements for the management of manure stockpiles are revised to require that open containers holding manure must be designed to prevent leachate from reaching any type of water or category of wetland.
- The required minimum distance between a manure pile and any wetland, aquatic area or ditch is increased to 100 feet. This distance may be reduced to 50 feet if the manure pile is part of an active compost system that does not contact the soil and that includes a leachate containment system.

**Amendments to K.C.C. chapter 21A.32, “General Provisions:
Nonconformance, Temporary Uses, and Re-use of Facilities”**

Section 1 -- Nonconformance - Applicability. (*K.C.C. 21A.32.020*) Changes the cross reference to mineral extraction operations to recognize that mineral extraction operations were moved to another location and adds processing operations to the section. [SALT Section 146]

Amendments to K.C.C. Chapter 21A.38, “General Provisions: Property - Specific Development Standards/Special District Overlays”

Section 1 -- Special district overlay - general provisions. (*K.C.C. 21A.38.040*) Revised as follows:

- References to the SITUS File were changed to refer to the department’s electronic parcel record.
- A special district overlay may not be deleted by a rezone.
- Special district overlay development standards may be modified or waived through the consideration of a variance.

Amendments to K.C.C. chapter 21A.42, “Review Procedures / Notice Requirements”

Sections 1-2 -- The following are repealed: K.C.C. 21A.42.010, K.C.C. 21A.42.020. These sections concern code compliance review procedures that have been replaced by later ordinances governing review of development proposals. [SALT Section 161]

Section 3 -- Code compliance review - Decisions and appeals. (*K.C.C. 21A.42.030*). Revised to base the department’s decisions on development proposals, rather than permits. Revised to update cross reference for appeals.

Section 4 -- Director review - Actions subject to review. (*K.C.C. 21A.42.040*). Updates cross reference changed by recodification in this ordinance. Also updates term used for mineral extraction operations.

Section 5 -- Director review - Decision regarding development proposal. (*K.C.C. 21A.42.080*). Revises title of section to achieve consistency in references to development proposals. Updates term used for mineral extraction operations. Updates cross reference changed by recodification in this ordinance.

Section 6 -- Examiner review - Zone reclassifications, shoreline environment redesignation, urban plan developments, special use permits, amendment or deletion of P-suffix conditions, plat vacations and short plat vacations. (*K.C.C. 21A.42.100*). Updates the list of types of proposals that are subject to review by the Hearing Examiner and approval by the King County Council to be consistent with other provisions of the King County Code. Also corrects a cross reference to notice requirements.

Section 7 -- K.C.C. 21A.42.120 is repealed. This section relates to proceedings before the adjustor, a position that has been eliminated. [SALT 161]

Amendments to K.C.C. chapter 21A.44, “Decision Criteria”

Section 1 -- Variance. (*K.C.C. 21A.44.030*) Adds a provision that within a special district overlay, the variance may not modify, waive or define uses; waive requirements for special studies or reports; or reduce buffer widths, setbacks or vegetation retention standards by more than a total of ten percent. Also gives more specific cross reference to property-specific development standards. Updates cross references to sections moved by this ordinance.

Amendments to K.C.C. chapter 21A.50, “Enforcement”

Section 1 -- Administrative section to recodify K.C.C. 16.82.130 as a new section in this chapter.

Section 2 -- Authority and application. (*K.C.C. 21A.50.020*) Updates a cross reference to K.C.C. Title 23 which has been renamed “Code Compliance.”

Section 3 -- Inspections. (*new*) Authorizes the director to make inspections and take necessary actions to enforce the zoning code (K.C.C. Title 21A). [SALT 5]

Section 4 -- Hazards. (*new*) Authorizes the director to determine that an existing site represents a hazard and to require the owner to eliminate the hazard. [SALT 5]

Section 5 -- Clearing and grading violations - corrective work required. (*K.C.C. 16.82.130*) The current requirement that permits cannot be granted until all corrective work is done is modified to provide an exception for permits needed to conduct the corrective work and to allow the approval of the work and posting of financial guarantees in lieu of the completed project. [SALT 122]

Section 6 -- Critical areas violations - corrective work required. (*new*) "Corrective work" is the phrase used in the enforcement code to describe the work done to correct a violation. The requirements are in most cases similar to “mitigation,” except that mitigation is done to address the impacts of authorized work. Therefore, this section parallels the mitigation section, where applicable. It requires restoration of the site, subject to all the usual permits and permit fees (including investigation fees). The restoration standards in the wetland and stream mitigation sections are cross referenced. All corrective work must be completed within one year or within the time required in the corrective work plan, and the violator must notify the department when all corrective work is complete. The failure to satisfy these requirements (including the timely provision of monitoring reports) results in a “default,” triggering enforcement options available to the department as set forth in law. The department is entitled to reasonable access to the site for inspections. [SAO 130]

Section 7 -- Critical areas violations - corrective work monitoring requirement. (*new*) Requires monitoring of corrective work, in accordance with the corrective work plan, for up to five years. Cross references section xx of this ordinance, which outlines monitoring requirements. [SAO 131]

Section 8 -- Critical areas violations - corrective work plan requirement. (*new*) Requires a corrective work plan (similar to a mitigation plan) for all corrective work. [SAO 132]

New Chapter, “Permits, Emergency Actions, Permit Exceptions”

Section 1 – Administrative section to create a new chapter in K.C.C. Title 21A. This section also recodifies K.C.C. 16.82.050 and 16.82.060, each as amended by this ordinance, as sections in this new chapter.

Section 2 – Permits required. (*new*) States that all activities, whether requiring another permit or not, are subject to the conditions of this chapter. Provides that permits are necessary for forest practices and clearing and grading. Except where specifically excepted in section 10, a separate permit shall be required for each site unless the activity is approved to occur on multiple sites under a programmatic permit. [SALT 73]

Section 3 – Programmatic permits. (*new*) Authorizes the department to issue programmatic permits for any clearing or grading activity except mineral extraction, and for forest practices conducted under a county-approved forest management plan. Activities eligible for a programmatic permit include clearing and grading activities which are subject to repetition as part of an ongoing program, which have the same or similar identifiable impacts for each activity, and for which permit conditions pertaining to all sites can be developed. Activities shall be subject to inspection by the department, and the programmatic permit is subject to the same application, review and renewal requirements as a regular clearing and grading or forestry permit. Programmatic permit conditions shall apply uniformly to each alteration authorized and at all locations covered by the permit. The department may require permit revision or take other action if necessary to ensure adequate regulation and impact protection. [SALT 74]

Section 4 – Application acceptance. (*new*) Provides requirements for the department’s review for acceptance of submitted permit applications.

- Applicants must be consistent with K.C.C. 20.20.040 and the permit process and procedures provisions of K.C.C. chapter 20.20.
- No application shall be accepted for a site that has been found in violation except to accomplish a required restoration or cure.
- No permit application, except forestry permits, shall be accepted unless accompanied by appropriate application for the development of a permanently established use consistent with the underlying zoning; together these shall constitute the conversion to the permanently established use.
- No permit application, except forestry permits, shall be accepted on lands designated Timberland unless applicant demonstrates that all payments and penalties resulting from the change in use pursuant to RCW 84.34.080 have been paid.
- No applications for uses inconsistent with ongoing forestry (such as subdivision of land, or preparation for residential or commercial buildings) shall be accepted for 6 years for lands cleared or graded pursuant to a Class II, III, or IV special forest practice or on lands cleared or graded without proper authorization, unless:
 - the applicant can demonstrate the clearing was consistent with the Conversion Option Harvest Plan and approved by King County and the state; or
 - the applicant can demonstrate they were victims of theft or fraud, they can fully restore any areas cleared in violation of King County regulations, and the restoration will be required through an approved mitigation plan. [SALT 75]

Section 5 – Permit application requirements. (*K.C.C. 16.82.060*) At minimum these include:

- description of the proposed work;
- estimate of work by volume and total area cleared as a percentage of total site area;
- property boundaries, easements and setbacks; identification of critical areas; clearing restrictions; critical drainage area requirements; and special district overlays;
- plans and specifications to include:
 - 1:2000 scale vicinity map with north arrow;
 - horizontal and vertical scale;
 - size and location of existing improvements within 50 feet of project, indicating which will remain and which will be removed;
 - location of proposed cleared areas;
 - existing and proposed contours at maximum 5-foot intervals, and extending 100 feet beyond the project edge;
 - two cross sections;
 - proposed erosion and sediment control plan; and
- environmental checklist.

The department may require additional information, which may include:

- higher accuracy in contours and more details in plans;
- location of open space tracts or conservation easements;
- calculations of the total proposed cleared area as a percentage of total site area;
- detailed plans showing drainage information;
- a determination of whether drainage review applies and, if applicable, all drainage plans and documentation consistent with the King County Surface Water Design Manual;
- restoration plan;
- additional studies to substantiate submitted materials or compliance with this title, especially in relation to critical areas.

Plans and specifications must be prepared and signed by a civil engineer if they are prepared in conjunction with a proposed structure, include permanent drainage facilities, or propose alterations in steep slope or landslide hazard areas. Also, the reference to clearing and grading permit requirements were removed from this section to section 4. [SALT 76]

Section 6 – Additional application requirements. (*new*) Provides additional application requirements for a development permit application involving any clearing or grading. The applicant shall provide information about the land use context, including critical areas, wildlife habitat conservation areas, existing development, vegetative cover, and soils. The applicant shall assess the impacts of proposal on critical areas and existing native vegetation on and mapped within one-quarter mile of the site, and provide analysis of how the development proposal avoids or minimizes these impacts.

The permit application for a development proposal must also provide an analysis of how the proposal complies with the following standards:

- If outside the urban growth area, a minimum of 65 percent native vegetation or other open space on the parcel shall be set aside and remain undeveloped, if not already developed. Any critical areas, including any mapped priority habitats, shall be considered as part of this set-aside 65 percent. To the maximum extent practicable, the native vegetation and

open space shall be connected to critical areas either on the parcel or on adjacent parcels.

- If outside the urban growth area, a maximum of 10 percent effective impervious surface shall be allowed on the parcel. If the amount of existing effective impervious on the parcel exceeds 10 percent, new effective impervious surfaces shall not be allowed.
- To the maximum extent practicable, new structures or site disturbance shall be located within or adjacent to existing developed areas.
- Any new development, including any clearing and grading, shall be located as far as possible from any critical areas on the lot or on adjoining lots, to the maximum extent practicable;
- To the maximum extent practicable, any new development shall minimize fragmentation of vegetative cover on the site and within 1/4 mile of the site. This section lists priorities of vegetative cover types for any fragmentation of vegetative cover, and gives guidance for determining the extent of fragmentation;
- To the maximum extent practicable, new development or site disturbance shall keep vegetative cover types on the site connected to similar vegetative cover types within 1/4 mile of the development site. Connectivity between streams and wetlands, streams and forest and wetlands and forest shall be given priority consideration; and
- Any new development shall minimize intrusion into areas of native vegetation.

Section 7 – Permit review and final decision. (*new*) The department shall review permit applications and may impose conditions upon permit approval as needed to mitigate identified project impacts, and shall deny applications that are inconsistent with the provisions of this title or other applicable regulations. Shoreline development permit requirements shall be incorporated into the permit conditions as required. The department may combine the review of the permit application with any other permits and approvals necessary for the development proposal. Any decision to approve, condition or deny a permit may be appealed pursuant to K.C.C. 20.20.20. [SALT 77]

Section 8 – Permit issuance. (*new*) The director may issue a permit if the proposed alteration will not adversely affect the character of the site for present lawful uses, or for future on-site and neighboring development. A notice to proceed shall not be issued for an approved permit until all federal, state and local agencies having jurisdiction have approved the work or provided formal consultation. Once a permit is approved, work shall not be done that is not provided for in the permit. [SALT 78]

Section 9 – Permit duration and renewal. (*new*) Provides time limits and criteria for periodic review and renewal of permits, based upon 2-year increments. It also provides authority to trigger periodic review of forestry and mineral extraction permits if activities are not in compliance with requirements. [SALT 79]

Section 10 – Emergency actions. (*new*) If activities or alterations requiring a permit are undertaken as an emergency action, it shall not be counted as a violation provided that the department is notified within 48 hours after the alteration. A pre-application conference and tribal notification are also required. The department shall establish a date by which required permit applications and information, including a critical areas report, shall be submitted. The

department shall identify corrective action or mitigation, and shall confirm that the alteration was an emergency action based upon:

- imminent danger or risk to the public health, safety and welfare or to persons and property;
- the emergency was unanticipated and not caused by the applicant's action or inaction;
- immediate emergency action was necessary; and
- the emergency action was in direct response to and did not exceed the dangers and risks posed by the emergency. [SAO 83; SALT 80]

Section 11 – Exceptions. (*K.C.C. 16.82.050*) Deletes old requirements and provides new requirements for specific activities that are excepted from the requirements of obtaining a permit prior to undertaking forest practices or clearing and grading activities. Excepted activities outside of critical areas and their buffers are:

- excavation less than 5 feet in vertical depth, no more than 100 cumulative cubic yards on a single site;
- fill less than three feet in vertical depth, no more than 100 cumulative cubic yards on a single site;
- grading that cumulatively produces less than 5,000 square feet of impervious surface on a single site, not including road resurfacing;
- clearing of less than one acre (unless a Class IV forest practice or a development proposal site subject to clearing restrictions);
- removal of noxious weeds, Himalayan blackberry and evergreen blackberry;
- use of herbicides or other hazardous substances except on a development proposal site which is subject to clearing restrictions;
- clearing or grading within a public road right-of-way or rail right-of-way.

Within critical areas and their buffers, the following are excepted from permit requirements:

- clearing of less than one acre in coal mine, volcanic, seismic or flood hazard areas.
- clearing in a roadway, subject to specific criteria;
- removal of noxious weeds, subject to specific criteria;
- grading in volcanic, seismic, coal mine or erosion hazard areas or in channel migration areas:
 - within a public road right-of-way except for installation of gas, water, sewer or other pipelines within a coal mine hazard area; or
 - out of a public road right-of-way if:
 - the excavation is less than five feet in vertical depth, no more than 100 cumulative cubic yards on a single site;
 - the fill is less than three feet in vertical depth, no more than 100 cumulative cubic yards on a single site; and
 - grading cumulatively produces less than 5,000 square feet of impervious surface;
- grading in a roadway located in a landslide hazard area, except for excavation for roadway surface replacement or excavation for underground utility work;
- grading in a roadway located in a steep slope hazard area, wildlife corridor or in the buffer of a steep slope hazard area, wetland or stream;
- fish habitat enhancement projects meeting the criteria of RCW 75.20.350;
- minor stream or wetland restoration by or sponsored by a public agency or tribe, subject to specific criteria;

- scientific sampling for salmonids pursuant to an approved sampling permit.

The following activities are excepted in and out of critical areas or their buffers, with certain qualifications and restrictions for salmonid streams, and critical areas and buffers:

- depositing or covering garbage at a county solid waste facility;
- excavation of cemetery graves;
- forest practices performed as Class I, II, III or IV Special forest practice in the F (forest) zone;
- forest practices performed as a Class II, III or IV Special forest practice outside the F (forest) zone, if the forest practice occurs on a site in long-term forestry that has not been subdivided since January 1, 1960, is located outside of urban growth area, is reforested in compliance with RCW 76.09.070, or has not been or is not proposed to be converted to another use;
- emergency tree removal, subject to specific criteria;
- horticultural and agricultural activities in continuous existence since November 27, 1990, including mowing hay, grass or grain crops, preparing soil, planting, harvesting, rotating crops, grazing livestock, commercial orchards, nurseries, hybrid poplar tree farms, Christmas tree farms; and the conversion among any of these activities;
- grading for construction or removal of livestock manure storage facilities or associated facilities (allowed in the flood fringe only if the facility is flood-proofed), subject to specific criteria;
- maintenance of cemetery graves, lawns and landscaping, driveways or private access roads, outdoor public park areas, facilities and trails, golf courses, roadside ditches (unless used by salmonids), cut or engineered slopes, flood control or drainage facilities maintained by a public agency, maintenance of activities associated with agriculture or horticulture in continuous existence since at least November 27, 1990;
- culvert maintenance;
- maintenance of farm ponds, fish ponds, livestock watering ponds and manure storage facilities not connected or draining to a stream.

[SALT 82]

New Chapter, “Development Standards - Site Alterations”

Section 1 – Administrative section to create a new chapter in K.C.C. Title 21A. This section also recodifies K.C.C. 16.82.100, 16.82.150 and 16.82.160, each as amended by this ordinance, as sections in this new chapter.

Section 2 – Erosion and sediment control standards. (*new*) Moved from section 3 to its own section with only the additional reference to forestry permits and minor technical changes. Any activity that will clear, grade or otherwise disturb a site shall provide erosion and sediment control that prevents, to the maximum extent possible, the transport of sediment from the site to drainage facilities, water resources and adjacent properties. Performance criteria and implementation requirements are provided in the King County Erosion and Sediment Control Standards. Activities performed as class II, III or IV special forest practices shall apply erosion and sediment controls in accordance with chapter 76.09 RCW and Title 222 WAC. [SALT 84]

Section 3 – Grading standards. (*K.C.C. 16.82.100*) Reorganized this section, moving erosion control requirements to section 2, hours of operations to section 6, deleting redundant requirements for excavation to water producing depths, revising some standards and adding new standards for compaction, off-site spills, soil retention, and soil quality. The changes from the existing standards include the following:

Cut and fill:

- the slope of cut and fill surfaces shall not exceed what is safe for the soil type;
- organic materials shall not be used in structural fill;
- recycled materials may be used but shall not contain dangerous waste or contain rebar or other materials, shapes or edges that pose safety hazards;
- recycled asphalt shall be allowed only when less than 10 percent by volume, and may not be used in areas where there is seasonal or continual perched groundwater, sole source aquifer, streams, wetlands or other water bodies;
- any drainage measures, benches or terraces shall be designed consistent with the King County Surface Water Design Manual;
- tops and toes of cut and fill slopes shall be set back as far as necessary to not have any affect on the use of neighboring property;
- fill greater than three feet in depth shall either be engineered and compacted to accommodate the proposed use or have its location recorded on title;
- fill in the floodplain shall meet compaction requirements for pond embankments in the Surface Water Design Manual;

Access roads:

- access roads must be located at the proposed permanent site access location;

Fencing:

- where required, fencing height was increased to six feet;

Off-site spills:

- rocks, dirt, mud, vegetation or other materials shall not be spilled onto public roadways and only placed on off-site property with a valid permit;

Soil retention and soil quality:

- the duff layer and native topsoil shall be retained in an undisturbed state to the maximum extent possible. Any duff layer or topsoil removed during grading shall be stockpiled to be reapplied to other portions of the site where feasible;
- all areas subject to clearing and grading that have not been covered by impervious surface, incorporated into a drainage facility or engineered as structural fill or slope, at project completion, shall have the soil moisture holding capacity of the original undisturbed soil native to the site;
- any area that has been compacted or that has had some or all of the duff layer or underlying topsoil removed shall amend the soil to mitigate for lost moisture holding capacity. The amendment shall take place between May 1 and October 1;
- replacement topsoil shall have an organic matter content of between eight to thirteen percent dry weight and a pH equivalent to the original undisturbed soil.

[SALT 85]

Section 4 – Clearing standards. (*K.C.C. 16.82.150*) Reorganized this section, moving seasonal disturbance standards to section 5. The changes from the existing standards include the following:

- In addition to the provisions of this section, clearing restrictions may apply from special district overlays and native vegetation retention areas under the Surface Water Design Manual;

Regulations specific to RA (Rural Area) zoned areas now apply to all RA zoned areas, and language applying these requirements to specific basins has been removed. Changes to the regulations include:

- clearing is limited to 35 percent of the property area, or the amount legally cleared before the effective date of clearing regulations in effect at the time of clearing;
- clearing required to relocate equestrian community trails shall not be counted toward the 35 percent maximum clearing standard;
- the maximum clearing standard may be increased to up to 50 percent of a parcel if the applicant demonstrates the existence of one of the following habitats, not part of a critical area or buffer: caves, habitat corridors (including amphibian migration), old-growth forests, mature forest, snag-rich areas, or talus slopes. The additional area that may be cleared is twice the area that is protected under this subsection. The applicant must submit an approved critical area report, with vegetation management plan, and must minimize fragmentation of the habitat;
- if 90 percent of a lot has been legally cleared prior to the effective date of this ordinance, the applicant will not be required to retain 50 percent as open space if the existing open space includes the remaining forest cover on the parcel and a stewardship plan is approved by the county;

- portions of individual lots that are to be retained in native vegetation shall be placed in a conservation easement to ensure long-term protection;
- notice on title is required to identify areas required on individual lots to be retained in native vegetation;
- restoration of parcels cleared in violation shall include restoration of the soil;

The director may modify the requirements of the above regulations that are specific to RA (Rural Area) zoned areas. Changes to the existing regulations include:

- the director may not modify requirements for a park project that is required by K.C.C. chapter 21A.24 as part of a residential development, nor for a road project that is part of a larger development proposal;
- the director may modify requirements for a project within a public road corridor that are not a part of a larger development;
- portions of projects outside of designated regionally significant resource areas shall be exempt from the above regulations.

Within the portion of the site required to be retained in native vegetation, the following activities may be permitted under a clearing and grading permit:

- forest practices in accordance with a county-approved forest management plan;
- activities that enhance and restore mature forest cover;
- passive recreation uses and related facilities, including pedestrian, equestrian and bicycle trails, nature viewing areas, fishing and camping areas, and other similar uses that do not require permanent structures. May not exceed eight percent of the area of the tract or easement. Within wildlife habitat networks, trail widths shall be the minimum allowed and no other recreation uses shall be permitted in the 150-foot minimum width of the network;
- utilities and utility easements, including surface water facilities, if within or adjacent to existing road or utility easements. Within wildlife habitat networks, utility uses within established easements shall be allowed within the 150-foot minimum width of the corridor. Development of new utility corridors shall be allowed within wildlife habitat networks only if necessary and if county-approved best management practices are used to minimize disturbance; and
- the minimum necessary pruning or removal of hazard trees to eliminate the hazard.

[SALT 86]

Section 5 – Seasonal disturbance standards. (*new*) Moved from section 4 to its own section and clarified while maintaining the existing seasonal disturbance limitations and their application. The significant change is to expand the end of the seasonal limitation period from March 31 to April 30. [SALT 87]

Section 6 – Hours of operation. (*new*) Moved from section 3 to its own section. Maintained the same hours of operation (between 7 a.m. and 7 p.m.) but limited Sunday hours between 10 a.m. and 5 p.m. Added that currently allowed variation to the standard hours of operation shall require consultation with the department of health to ensure compliance with nighttime

noise standards and that the decision and all mitigation requirements shall be documented and compiled with all similar decisions for public inspection. [SALT 88]

Section 7 – Hazard and damage. (*new*) Provides that all adjacent property, public resources including surface and groundwaters, set-aside areas, rights-of-way and drainage systems shall be protected from hazards and damage resulting from activities allowed under this title. [SALT 89]

Section 8 – Agricultural Production Districts standards. (*K.C.C. 16.82.160*) Makes clarifying changes to existing requirements for utilities and other public facilities crossing a portion of an APD. [SALT 90]

New Chapter, “Development Standards - Waste Materials Processing Operations”

Section 1 -- Administrative section to create a new chapter in K.C.C. Title 21A.

Section 2 -- Purpose. (*new section*). Sets forth standards to minimize the impacts of processing operations upon surrounding properties by:

- ensuring adequate review of operating aspects of waste materials processing sites to minimize impacts; and
- requiring periodic review of operations to ensure compliance with the most current standards. [SALT 135]

Section 3 -- Exemptions. (*new section*) This chapter applies only to processing operations. [SALT 136]

Section 4 -- Clearing and grading permits required. (*new section*) Processing operations shall only occur under a valid clearing and grading permit that shall apply the requirements of this chapter in addition to the other requirements of K.C.C. Title 21A. [SALT 137]

Section 5 -- Preapplication community meetings. (*new section*) Requires that when a new processing operations site or establishment is proposed or expanded, the applicant shall hold and document a community meeting prior to submittal of an application consistent with the community meetings requirements of the code section relating to mineral extraction. [SALT 138]

Section 6 -- Nonconforming waste materials processing operations. (*new section*) Provides that to the extent feasible, nonconforming processing operations shall be brought into conformance with the operating conditions and performance standards of K.C.C. Title 21A during permit renewals. The conformance schedule shall be developed during the first periodic review of the operation, and incorporated into the permit conditions. [SALT 139]

Section 7 -- Periodic review. (*new section*) Processing operations are subject to review of development and operating standards at 5-year intervals consistent with the periodic review requirements of the mineral extraction section. [SALT 140]

Section 8 -- Site design standards. (*new section*) Unless otherwise provided for in Section 6, processing operations shall comply with the site design standards relating to mineral processing. [SALT 141]

Section 9 -- Operating standards. (*new section*) Processing operations shall comply with the operating standards relating to mineral processing. Failure to meet these requirements shall require modifications to operations, procedures or equipment, which may in turn require a permit modification. [SALT 142]

Section 10 -- Reclamation. (*new section*) Processing sites must maintain a valid clearing and grading permit until site reclamation is complete consistent with the reclamation requirements relating to mineral processing, unless required to have an approved reclamation plan under RCW chapter 78.44. [SALT 143]

Section 11 -- Mitigation and monitoring. (*new section*) Unless otherwise provided, the applicant shall mitigate adverse impacts resulting from processing operations and monitor to demonstrate compliance with this chapter. [SALT 144]

Section 12 -- Financial guarantees. (*new section*) Financial guarantees shall be required consistent with K.C.C. Title 27A. [SALT 145]

New Chapter, “Mitigation and Monitoring”

Section 1 – Administrative section to create a new chapter in K.C.C. Title 21A. This section also recodifies K.C.C. 21A.24.130, .340, .345, .380, .390, .400, .410 and .420, all as amended by this ordinance, and K.C.C. 21A.24.140 as sections in this new chapter.

Section 2 – Mitigation and monitoring. (*K.C.C. 21A.24.130*) States that an applicant must mitigate adverse impacts to critical areas and their buffers, and from hazard areas on the development proposal that result from proposed alterations on or near critical areas. Other revisions include requiring the use of “best available science” and the best available currently accepted engineering, geological and biological practices. States that the failure to provide a monitoring report within 30 days of its due date, or to comply with other provisions of an approved mitigation plan, will constitute a default, and the department may demand payment of any financial guarantees or require other actions.

Section 3 – Mitigation sequence. (*new*) Defines the sequence of approval for mitigation actions applicable to critical areas or their buffers. The sequence is: (1) avoiding the impact, (2) minimizing the impact or hazard through affirmative steps such as redesign or relocation of the project, (3) rectifying the impact through repair, restoration or rehabilitation, (4) minimizing or eliminating the hazard through rehabilitation or restoration, (5) reducing or eliminating the impact or hazard over time through preservation or maintenance operations, (6) compensating for the impact, or (7) monitoring the impact, hazard or mitigation. [SALT 115]

Section 4 – Mitigation plan requirement. (*new*) The applicant shall submit a proposed mitigation plan to the department for approval, and may not implement mitigation until after the department approves the mitigation plan. The department may waive this requirement for any critical area except an aquatic area, wetland or fish and wildlife habitat conservation area. The department may require the mitigation plan to include monitoring and reporting provisions and a contingency plan in the event of mitigation failure or unforeseen impacts. All mitigation must comply with the mitigation plan. [SALT 117]

Section 5 – Monitoring requirement. (*new*) Monitoring to demonstrate compliance with this title or to demonstrate mitigation success shall be required in accordance with an approved mitigation plan as described in this section. Monitoring must be conducted through the period of impact from the permitted activity; or up to 5 years after installation of mitigation; or for as long as a specific hazard remains after mitigations measures are taken. The department may waive monitoring of mitigation except in the case of mitigation for alterations to aquatic areas, wetlands and fish and wildlife habitat conservation areas, which must be monitored for 5 years. If the applicant must implement a contingency plan, the contingency plan is considered new mitigation, and all mitigation and financial guarantee requirements apply. Finally, King County must be provided reasonable access to the mitigation site for inspection purposes. [SALT 116]

Section 6 – Financial guarantees. (*K.C.C. 21A.24.140*) Must be consistent with K.C.C. Title 27A.

Section 7 – Specific mitigation requirements – mineral extraction and waste materials processing operation. (*new*) Describes additional requirements which must be met by these operations, including mitigation of:

- Fugitive dust;
- Noise and blasting;
- Landslides;
- Accelerated deterioration of roadways;
- Effects on local water supply wells and aquifer quality and quantity; and
- Effects on surface water and water body quality and quantity.

Monitoring reports shall be provided as specified in the mitigation plan. Records shall be kept onsite and available for department and public inspection, including copies of yearly reports and daily logs on material production, water use and monitoring. Monitoring may be required for the life of the operations and shall at a minimum include compliance with air and noise standards and groundwater protection. [SALT 118]

Section 8 – Specific mitigation requirements – coal mine hazard area. (*new*) Describes additional mitigation requirements that apply to these areas. Specifically:

- In a *moderate* coal mine hazard area the mitigation must be designed to minimize the risk of structural damage; and
- In a *severe* coal mine hazard area the mitigation must be designed to eliminate or minimize significant risk of personal injury.

Mitigation may include incorporation of building setbacks and design and performance tolerances for structures and infrastructure improvements incorporated into site, building or landscape plans. Any mitigation plan to address potential trough subsidence must be prepared by a professional engineer. [SALT 118]

Section 9 – Specific mitigation requirements – erosion hazard area. (*new*) Describes additional mitigation requirements that apply to these areas. Specifically:

- The mitigation plan shall include an erosion and sediment control plan prepared in compliance with the King County Surface Water Design Manual;
- Damage to or removal of vegetation on lots in a subdivision, short subdivision or binding site plan during construction of related infrastructure shall be mitigated by stabilizing the lots in compliance with King County Erosion and Sediment Control Standards; and
- If the project does not meet appropriate water quality standards established by law or administrative rules, the county may suspend further development work on the site until such standards are met. [SAO 125]

Section 10 – Specific mitigation requirements – seismic hazard area. (*new*) The department may waive or reduce mitigation if it determines in writing that the risk is limited to property damage that is not considered to be significant, and the cost of mitigation greatly exceeds the benefit of the proposed mitigation

Section 11 – Specific mitigation requirements – wetland. (*K.C.C. 21A.24.340*) Describes additional mitigation requirements that apply to wetlands or wetland buffers. Specifically:

- Mitigation must be on a per function basis in order to achieve equivalency or improvement.
- **Permanent and temporary alterations:** Mitigation requirements are divided into two categories: mitigation measures for permanent alterations and for temporary alterations.

- **Mitigation formulae:** A more precise mitigation formulae is proposed. The new formulae addresses the new wetland categories (I through IV) in the proposed Critical Areas Ordinance and incorporates the following features:
 - **On-site/off-site mitigation:** New mitigation ratios which favor on-site mitigation over off-site mitigation.
 - **In-subbasin/in-basin mitigation:** New mitigation ratios which favor in-subbasin mitigation over in-basin mitigation.
 - **Restoration/enhancement vs. creation:** Provides different ratios for enhancement and restoration over wetland creation.
 - **Rectification:** Distinguishes rectification from other forms of restoration.
 - **Square footage:** Clarifies that mitigation ratios are implemented on an “areal” or square footage basis.
- **On-site mitigation – combining sites under common ownership:** Authorizes the department to combine contiguous sites under common ownership and in the same subbasin as one site for the purpose of on-site mitigation ratios if the department determines that equivalent wetland functions can be achieved.
- **Off-site mitigation standards:** Provides standards for approving off-site mitigation, including:
 - Gives preference to wetlands given priority in approved basin plans.
 - Encourages mitigation sites in close proximity to other wetlands and wildlife habitat networks to achieve maximum wildlife benefits.
 - Allows out-of-subbasin mitigation only if the department determines that in-subbasin mitigation is not practical, and that equivalent or better functions will be achieved than with in-subbasin mitigation.
 - Authorizes the use of private off-site wetland mitigation sites. All mitigation and mitigation sites must be approved by the department, and the county is authorized to enter into any agreements necessary to insure that the mitigation site will remain a mitigation site.
- **Isolated wetlands:** Mitigation of an alteration to an isolated wetland or its buffer must include creation of a new wetland and buffer within the same subbasin or enhancement of wetland(s) within the same subbasin; this mitigation must also include enhancement of the wildlife habitat of any wetland created or enhanced for this purpose.
- **Specific mitigation measures:** Specific mitigation measures are established for lake shoreline development, including on-site revegetation, maintenance, and other restoration of the buffer or setback area to the maximum extent possible.
- **Restoration standards:** Restoration standards are clarified. Restoration must be carried out under the supervision of a wetland scientist.
- **Drainage and flood control:** Drainage or flood control alterations shall not constitute wetland creation or enhancement.

- **Fees in lieu of mitigation:** Authorizes the department to develop a program to allow the payment of a fee in lieu of providing on-site mitigation, and provides requirements for this program and the use of the fees.
- **Flexibility:** Mitigation requirements may be modified if “greater wetland functions can be obtained.”

[SAO 127]

Section 12 – Specific mitigation requirements – wetland mitigation banking. (*K.C.C. 21A.24.345*) The standards regulating the development and use of a mitigation bank are moved from the code to administrative rules. [SAO 128]

Section 13 – Specific mitigation requirements – aquatic area. (*K.C.C. 21A.24.380*) Uses the updated term “aquatic area” instead of “stream.” Describes mitigation standards particular to streams. Clarifies that mitigation of impacts to stream functions must be on a per function basis in order to achieve equivalency or improvement. Provisions for mitigation include:

- distinguishing mitigation based on temporary and permanent alterations,
- adding mitigation ratios for on-site and off-site mitigation,
- requiring that off-site mitigation provide wildlife benefits whenever possible,
- moving violation provisions pertaining to restoration to K.C.C. chapter 21A.50 (“Enforcement”),
- requiring that restoration be supervised by a stream scientist,
- allowing for private mitigation sites,
- authorizing the department to develop a program to allow payment of a fee in lieu of on-site mitigation, and
- providing for flexibility to achieve better mitigation results.

This section also defines “on-site” and “off-site” for the purposes of aquatic area mitigation requirements. Finally, drainage or flood control alterations shall not constitute enhancement unless other affected aquatic area functions are simultaneously improved. [SAO 129]

Section 14 – Specific mitigation requirements – wildlife habitat network. (*new*) Describes additional mitigation requirements that apply to these areas. Specifically:

- Mitigation of alterations to wildlife habitat networks shall achieve equivalent or greater biologic functions than the original.
- Mitigation of the adverse impacts of alterations to wildlife habitat networks shall be in the same network.
- The wildlife habitat network width may be increased as determined by the department.
- Mitigation of the adverse impacts shall be within the same corridor and shall include rectification, enhancement, or restoration as determined by the department.
- Mitigation ratios are provided for on-site and off-site mitigation (section 11).
- Mitigation requirements are divided into two categories: mitigation measures for permanent alterations and for temporary alterations.
- Restoration shall be conducted under the supervision of a wildlife scientist.
- Restoration shall address the original soil type and features, native vegetation, and biologic habitat functions of the wildlife habitat network.

- Off-site mitigation shall be approved only if the department determines that on-site mitigation is not practical, and that equivalent or better biologic and habitat functions will be achieved than with on-site mitigation.
- The department has the flexibility to modify the requirements as long as this provides better mitigation results.

[SAO 119]

Section 15 – Specific mitigation requirements – fish and wildlife habitat conservation area. *(new)* Describes additional mitigation requirements that apply to these areas. Specifically:

- Mitigation shall be designed to prevent disturbance to the species from the proposed development activity and to minimize the adverse impact of the alterations to the fish and wildlife habitat area.
- The mitigation plan shall include an analysis of each protected species impacted by the development activity or alteration.
- On-site mitigation may include management practices and mitigation measures such as buffer averaging and enhancement of the fish and wildlife habitat conservation area.
- Off-site mitigation may include buffer averaging and enhancement of fish and wildlife habitat conservation areas contiguous to the on-site areas. Non-contiguous off-site mitigation may only be approved when necessary for reasonable use or director's modification.

Section 16 – Critical areas mitigation fee - Creation of fund. *(K.C.C. 21A.24.390)* Technical changes.

Section 17 – Critical areas mitigation fee - Source of funds. *(K.C.C. 21A.24.400)* Technical changes.

Section 18 – Critical areas mitigation fee - Use of funds. *(K.C.C. 21A.24.410)* Technical changes.

Section 19 – Critical areas mitigation fee - Investment of funds. *(K.C.C. 21A.24.420)* Technical changes.

New Chapter, “Critical Aquifer Recharge Areas”

Section 1 -- Administrative section to recodify King County Code (K.C.C.) sections 20.70.030 and 20.70.060, each as amended by this ordinance, and K.C.C. sections 20.70.020, 20.70.040, and 20.70.050, as a chapter in K.C.C. Title 21A. This chapter addresses critical aquifer recharge areas.

Section 2 -- King County Code provisions adopted. (*K.C.C. 20.70.030*) Revised to update cross references to the site alterations chapter and mineral extraction (formerly K.C.C. chapters 16.82 and 21A.22, respectively), which have both been recodified into K.C.C. Title 21A.

Section 3 -- Evaluation and implementation. (*K.C.C. 20.70.060*) Corrects cross reference to K.C.C. 20.70.20, which has been recodified by this ordinance.

Section 4 -- Ordinance 11481, Section 8, and K.C.C. 20.70.200 are repealed. This is a severability section from the prior ordinance.